

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 4057-25

GLENN et al.

C# M#

Serial No. 09/311,720

Group Art Unit: 1644

Filed: May 14, 1999

Examiner: G.R. Ewoldt

Title: GENETIC IMMUNIZATION BY EPICUTANEOUS APPLICATION

Date: July 17, 2002

Assistant Commissioner for Patents
Washington, DC 20231

RECEIVED

JUL 18 2002

TECH CENTER 1600/2900

Sir:

ELECTION IN RESPONSE TO SPECIES REQUIREMENT

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Fees are attached as calculated below:

Total effective claims after amendment 127 minus highest number
previously paid for 127 (at least 20) = 0 x \$ 18.00 \$ 0.00

Independent claims after amendment 8 minus highest number
previously paid for 8 (at least 3) = 0 x \$ 84.00 \$ 0.00

If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months) \$ 0.00

Terminal disclaimer enclosed, add \$ 110.00 \$ 0.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00) \$ 0.00
☐ Please enter the previously unentered, filed
☐ Submission attached

Subtotal \$ 0.00

If "small entity," then enter half (1/2) of subtotal and subtract -\$ 0.00
☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00) \$ 0.00

Assignment Recording Fee (\$40.00) \$ 0.00

Other: 0.00

TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: Gary R. Tanigawa, Reg. No. 43,180

Signature: 

#21
gnd

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FOR: GENETIC IMMUNIZATION BY EPICUTANEOUS APPLICATION



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Sir:

In response to the pending Office Action (Paper No. 20) mailed June 17, 2002, the species i) sequestrin (see Example 19), ii) CpG1 (see Examples 34 and 38), and iii) an adenovirus viral regulatory region (see page 13, lines 22-23, of the specification) are elected. Claims 1-127 read on at least one of the elected species; claims 1-31, 35-36, 41-46, 55-58, 68-69, 72-122 and 124-127 read on all three species. Applicants reserve the right to prosecute the non-elected subject matter in a further patent application.

Claims 1-127 are pending. In the prior response, Group I (claims 1-46, 55-111 and 115-116) was elected with traverse. The Examiner is urged to include claims 117-127 in Group I. In addition to the previously made arguments in support of traversal, it is noted that the claims of US 6,087,341 and US 6,348,450 required examination of more than the subject matter of Group I. Furthermore, compact prosecution and the public interest in resolving conflicting priority claims in an interference also favor withdrawal of the restriction requirement so the pending claims issue in a single patent.

Consideration of the request to provoke an interference under 37 CFR § 1.607 between this application and the patent US 6,087,341 is earnestly solicited. See pages 6-7 of the Response dated July 10, 2001. The latter appears to claim a priority date of February 12, 1998, which is subsequent to Applicants' effective filing date. It is believed that an appropriate interference count would be patent claim 1 and/or Applicants' claim

102. If so, patent claims 1-16 and Applicants' claims 102-116 would be directed to the same invention.

Consideration of the request to provoke an interference under 37 CFR § 1.607 between this application and the patent US 6,348,450 is earnestly requested. See pages 4-5 of the Response dated March 14, 2002. The latter appears to claim a priority date of August 13, 1997, which is subsequent to Applicants' effective filing date. It is believed that an appropriate interference count would be patent claim 25 and/or Applicants' claim 117. If so, patent claims 1-52 and Applicants' claims 117-127 would be directed to the same invention.

Applicants earnestly solicit an early and favorable examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

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